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Appl. No.: 10/717,383

Amdt. Dated March 14, 2008

Reply to Office Action Mailed December 17, 2007

REMARKS:

On the Amendments. Pursuant to the amendment above, claims 1-6 and 9-20 are presented with a request for continued examination. Claims 1 and 9 are amended herein, and new claims 11-20 are added. No new matter is presented, and the claim amendments and additions above are supported in the original specification and drawings at, *inter alia*:

Claim 1: Paras. [0016]-[0017], FIGS. 1-2
Claim 9: Paras. [0016]-[0017], FIGS. 1-2
Claim 11: Para. [0017], FIG. 2
Claim 12: Paras. [0009] and [0017], FIG. 2
Claim 13: Para. [0004]
Claim 14: Para. [0006], FIG. 2
Claim 15: Para. [0018]
Claim 16: Para. [0007]
Claim 17: Para. [0017], FIG. 2
Claim 18: Paras. [0009] and [0017], FIG. 2
Claim 19: Para. [0018]
Claim 20: Para. [0007]

Response to Restriction Requirement. Applicant respectfully traverses the restriction requirement made between claims 1-6 and claims 9-10 and requests reconsideration and

withdrawal of that restriction requirement. Pursuant to 37 CFR §1.143, with this traversal Applicant provisionally elects claims 1-6, and those new claims depending therefrom, namely new claims 11-16. It is respectfully submitted that the restriction requirement was made in error, the examiner having failed to establish a prima facie case for restriction between claims 1-6 and claims 9-10. First, the restriction requirement is in error for vagueness, insofar as it relies on a determination that "newly amended independent claim 1" (*Office action, p. 2 lines 8-9*) possesses a list of features recited by the examiner (at *Office action, p. 2 lines 9-16*) which appear, instead, to be the features of new claim 9, and the grounds for restriction therefore are not clear. Second, there is a lack of a prima facie case for restriction insofar as the requirement relies upon an erroneous statement of the content of "originally present claim 1:"

In contrast, originally present claim 1 operates an independent service organization [to] which a person *may or may not* submit a report; negotiates; and collects a reward.

(*Office action, p. 2 lines 16-18*) (*emphasis original*). The examiner errs in that Claim 1 does not recite that a person *may or may not* submit a report; the completion of the method contemplates that a report is in fact submitted. Moreover, that difference, even if present, would fail to render claim 1 independent or distinct from claim 9. Both claim 1 and claim 9 recite the feature of operating an independent service organization to which a person or persons may or can anonymously report fraud or misconduct. There is no rational basis for a prima facie case for restriction on grounds that "claim 1 operates an independent service organization [to] which a person *may or may not* submit a report."

In addition, invention as set forth in claims 1 and 9 should not be deemed independent or distinct. The invention as recited in claims 1 and 9 has the following features common to both claims:

- A method of facilitating "whistle-blowing"
- by one or more persons

- anonymously reporting
- fraud and misconduct
- comprising the step of operating an independent service organization
- to which the one or more persons can or may report the fraud or misconduct
- negotiating or agreeing to a reward from the affected or victimized entity
- receiving or collecting the reward from the affected or victimized entity
- collecting or passing at least a portion of the reward to the reporting person or persons, or to a third party specified or designated by the reporting person or persons.

As a result of these specific features held in common between claims 1 and 9, it is submitted that the invention as set forth in claims 1 and 9 are connected in at least one of design, operation, or effect. It is further submitted that the invention as set forth in both claims 1 and 9 is properly classified under class 705 of the patent classification system. It is submitted that both claims 1 and 9 would be covered in the same field of search, have no separate status in the art, have clearly overlapping subject matter, and are capable of use together. It is thus submitted that the subject matter of claims 1 and 9 is not properly determined by the examiner to be separate and distinct. Because no serious burden on the examiner is posed by the examination of both claims 1 and 9 in this application, it is submitted that the restriction requirement is made in error, and should be reconsidered and withdrawn.

Therefore, with this request for continued examination, Applicant presents again claims 1-6 and 9-10, the latter two designated as currently amended and previously presented, rather than as withdrawn. Applicant requests that the examiner remove the withdrawn designation of claims 9-10.

Response to New Matter Objection. The objection on grounds of introduction of new matter by reason of adding the term "within an entity, and not as seller and customer" has been

overcome. The objected-to term has been deleted from the claims in the amendment presented above.

Response to Section 112, Second Paragraph Rejection. The rejection has been overcome by the amendment of the independent claims to include a determination step in accordance with the requirement raised by the examiner. The determination step has been articulated in accordance with the disclosure, insofar as the step involves the determinations made by the independent service organization. The determination step as set forth by the examiner is a determination of whether to issue a reward on behalf of the victim, and this step would in fact be undertaken by the victimized entity rather than the independent service organization. To keep the claim in a form that can be used or infringed by a single entity, this step has been phrased as one of receiving the determination, not actually making it. This addition of a determination step, together with the clarifying amendments set forth above in claims 1 and 9, are submitted to render the claims complete so as to overcome this rejection.

Response to Section 102(b) Rejection. Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-6 as anticipated by Sloo, U.S. Pat. No. 5,895,450. As previously argued, Sloo has nothing to do with whistle-blowing but is a common complaint-resolution or mediation scheme about product and service defects. A single malfunctioning toaster or an individual's botched oil change is not within the "fraud, misconduct, and other victimization" referred to in the claims and is not within the concept of "whistle-blowing". Whistle-blowing concerns systematic or egregious fraud or misconduct by an organization or person, not simply complaining about an occasional defective product or unacceptable service. Sloo makes no teaching or suggestion of, and offers no motivation for, establishing a whistle-blower reporting program, particularly as there is no "reward" provided by a victim to the anonymous reporter, but only compensation to a buyer for the bad toaster, etc. The "fee" the

examiner refers to (Office action, page 5) is an administrative cost for the proceedings, not a reward paid to a third party for having reported fraud, misconduct, etc., as is required in claims 1 and 9 of the present application. The examiner's reading "complaint" in Sloo as encompassing any and all communications for any purpose is not supported by the present specification, by Sloo, by any dictionary, or by any common sense: whistle-blowing is not mere complaining, it is seeking redress of serious grievances on behalf of the public, the government, or a fellow citizen.

The Examiner's rejections of the dependent claims are no better supported. Claim 2 requires that the reward be collected and passed to a specified entity on behalf of the reporter, who remains anonymous or not at his or her choice, whereas Sloo only provides public access to complaints and resolutions and to reports of conduct of the parties during the process. Thus the Sloo process may obtain compensation for the buyer of the bad toaster, but that is compensation, not reward, and it goes to the injured buyer, not a third-party whistle-blower as here.

Claims 3 and 4 depend from Claim 1 and add to the novel method claimed there a method for communication between the organization and the reporter, including providing security for individual whistle-blowers, not just a public forum such as the Better Business Bureau does. That names are hidden in Sloo does not make access to his site secure for communications purposes.

Claim 5 provides a method for generating a reward to the whistle-blower, whereas Sloo teaches only "settlement of the complaint" for the bad toaster etc., - a wholly different concept, since the victim will be separately compensated in the present invention, in addition to the whistle-blower who may have no stake in the underlying issue apart from wanting to see justice done.

Claim 6 provides a method for funding operation of the independent service organization, from portions of the rewards won for the whistle-blowers, whereas Sloo collects money from everyone involved, whether compensation or replacement of the bad toaster is won or not. That "third party witnesses" may be paid in Sloo - apparently for time testifying, not for initiating a

complaint on behalf of a third party - does not teach, suggest, or provide motivation to one to set up an independent service organization as here to facilitate righting of egregious wrongs to others.

Claims 9-10 distinguish from Sloo at least in the same manner as claims 1-6 as explained above. Claims 9-10 are a bit more detailed in their recitations of steps and limitations.

New claims 11-20 protect specific situations in which whistle-blowing is to be facilitated, as distinct from complaints about toasters and oil changes.

By the present response, Applicant has amended the claims to place them into condition for allowance and has distinguished the claims as amended from the one applied prior art reference, Sloo. The cited but not-applied Walker publication discloses methods and systems for shielding identities of persons who wish to remain anonymous to one another (but known to the trusted central figure) but still conduct a series of exchanges of messages. While this Walker disclosure may be useful alternative or supplement to the present method, it is a different method in that in the present invention identities of whistle-blowers are not merely shielded but are entirely and permanently hidden, known to no one else in the system.

Reconsideration and withdrawal of all of the rejections is requested. It is respectfully submitted that all the claims 1-6 and 9-10 of the application are in condition for allowance and that all requirements, objections, and rejections in the Office action have been met. If any issue remains, please telephone or e-mail undersigned counsel.

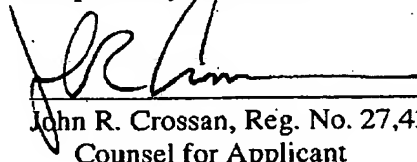
Interview Summary. Applicant thanks the examiner for the time and care taken in providing a telephone interview with the undersigned on January 17, 2008. The Examiner's Interview Summary mailed on January 23, 2008, is considered to be an accurate record of the interview, and is herein incorporated by reference as Applicant's statement under 37 CFR §1.133(b). Agreement was not reached.

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Extension Request and Deposit Account Fee Charge Authorization. SMALL ENTITY STATUS IS CLAIMED. The Commissioner is hereby authorized to charge any required fees or credit any overpayment associated with this communication, including fees for any necessary extension of time under 37 CFR §1.136(a) for filing this communication, which extension is hereby requested, to our Deposit Account No. 50-0305 of Chapman and Cutler LLP.

Respectfully submitted,


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Dated: March 14, 2008

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CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. § 1.8

Attorney Docket Number: 1713973
App. Serial No.: 10/717,383
Date of Facsimile Transmission: March 14, 2008
Transmitted to Facsimile No.: 1-571-273-8300

I hereby certify that the attached correspondence, namely: Request for Continued Examination, with Reply and Amendment, was transmitted by facsimile on the date listed above, to the U.S. Patent Office at the facsimile number listed above, under 37 C.F.R. § 1.8.

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Name of Person Signing this Certificate: John R. Crossan, Reg. No. 27,433

Date of Signature: March 14, 2008